

REMARKS

I. Status of the Application

Claims 5-16 are pending in this application. In the October 31, 2007 office action, the Examiner:

- A. Rejected claims 5-14 as being indefinite for failing to point out subject matter regarded as the invention;
- B. Rejected claims 9-12 under 35 U.S.C. §102(e) as being anticipated by US 6,714,556 to Egbert;
- C. Rejected claims 5-8, 13-14 and 15-16 under 35 U.S.C. § 103(a) as being unpatentable over Egbert in view of US 6,954,437 to Sylvest et al.; and
- D. Objected to the specification due to informalities.

Applicant has thoroughly considered the Office Action dated October 31, 2007 and has amended the application to more clearly set forth the invention. Claims 5, 7, 9, 10 and 13 have been amended and claims 8 and 12 have been cancelled by this Amendment. Thus, claims 5-7, 9-11 and 13-16 are presented in the application for further examination. Reconsideration of the application as amended and in view of the following remarks is respectfully requested.

II. Amendments to the Specification

The use of the term “command data packets” in the specification has been objected to. Applicant submits that the distinction between the terms “frame” and “packet” is appreciated: a frame is a physical organization of bits, transmitted in electrical (RZ or NRZ) format for point to point communication, while a packet is a logical set of bits, which carries an independent piece of information. Applicant submits that the objection to the use of the term “command data packets” in the specification arises from the assumption that the switches referred to in the specification are Layer 2 switches. This is, however, not the case. The switches in the specification are, in fact, Layer 2+ switches and are thus capable of identifying, classifying and changing the bit fields in a packet, even though a typical layer 2 switch is incapable of doing so. Accordingly, the switches in the specification are capable of dealing with packets. In view of the foregoing, applicant respectfully requests the withdrawal of the objection to the use of the term “command data packets” in the specification.

The tables in the specification are also objected to as being irreproducible. Applicant has amended the specification to address this objection. The tables in the specification have been replaced.

III. Indefiniteness Rejection of the Claims

Claims 5-7, 9-11, 13 and 14 stand rejected under 35 U.S.C. 112 as being indefinite. Applicant submits that this ground of rejection should be withdrawn in view of the explanation on the use of the term “command data packets” in the specification provided above.

IV. Prior Art Rejection of the Claims

Claims 9-11 stand rejected under 35 U.S.C. 102 (b) as being anticipated by U.S. Patent No. 6,714,556 to ("Egbert"). Applicant submits that each and every element as set forth in independent claim 9 is not found, either expressly or inherently, in Egbert. Egbert discloses in col. 3, lines 60-62 that the master host processing unit 46a generates **a data frame for each of the slave processing units** (e.g., 46b). The master host processing unit 46a outputs each of the data frames to the switching unit 44a which outputs the data frames onto the backbone link 48. The switching units (e.g., 44b) corresponding to the slave CPUs receive the data frames and perform a lookup of the destination address in order to make a frame forwarding decision. Each slave switching unit 44 forwards the received data frame to the corresponding host processing unit 46 based on a determined match between the destination MAC address and the assigned MAC address of the switching unit 44. (See col. 4, lines 5-19 of Egbert) Since all the switches 44 in Egbert are connected by the backbone link 48, the data frames output onto the backbone link 48 by the master switch 44a are passed directly to the targeted slave switch. There is thus no need for any of the slave units 44 in Egbert to pass a command packet to any further slave switch to which it is connected if a negative determination is made. Consequently, there is no disclosure, teaching or suggestion in Egbert of a first slave data switch passing a command packet to a second slave data switch if the first slave data switch determines that the command packet is not intended to cause a command to be carried out at the first slave data switch, as specified in claim 9. Thus, Egbert does not anticipate claim 9. Claims 10 and 11, by virtue of their dependencies at least, are therefore also not anticipated by Egbert.

Applicant also submits that since all the switches 44 in Egbert are connected by the backbone link 48, the data frames output onto the backbone link 48 by the master switch 44a are passed directly to the targeted slave switch. There is thus no need for any of the slave units 44 in Egbert to pass a command packet to any further slave switch to which it is connected if a negative determination is made and hence no motivation for a person skilled in the art to modify Egbert to arrive at claim 9. Thus, claim 9 is non-obvious over Egbert. Claims 10 and 11, by virtue of their dependencies at least, are therefore also non-obvious over Egbert.

Claims 5-7 and 13-16 stand rejected under 35 U.S.C. 103 (b) as being unpatentable over Egbert in view of U.S. Patent No. 6,954,437 to Sylvest et al. ("Sylvest"). Applicant submits that the invention as currently claimed is non-obvious over a combination of the teachings of Egbert and Sylvest. As set out in the MPEP, the following three criteria must be met in order to establish a *prima facie* case of obviousness:

- (i) there must be some suggestion or motivation to combine the reference teachings;
- (ii) there must be a reasonable expectation of success; and
- (iii) the prior art references must teach or suggest all the claim limitations.

In the present case, Egbert is concerned with providing an arrangement that enables communication between multiple host processing units, configured for controlling respective network switch devices, without the necessity of a separate CPU bus (see col. 1, line 66 to col. 2, line 2 of Egbert). Sylvest, on the other hand, is concerned with avoiding transient loops while adopting a new network topology (see col. 1, lines 8-10 of Sylvest). Neither Egbert nor Sylvest expressly or impliedly suggests the combination and given that each is directed to a

different problem, there appears to be no motivation to make such a combination, much less make the combination with any reasonable expectation of success. Furthermore, the combination of Egbert and Sylvest fails to teach or suggest all the claim limitations. For instance, neither Egbert nor Sylvest teaches or suggests the feature of a first slave data switch operable to pass a control data packet to a second slave data switch if the first slave data switch determines that the control data packet is not intended to cause a command to be carried out at the first slave data switch, as specified in independent claims 5 and 9. Accordingly, since the criteria for establishing a *prima facie* case of obviousness has not been met, the claims as presently worded are non-obvious over Egbert and Sylvest.

It is felt that a full and complete response has been made to the Office action, and applicant respectfully submits that pending claims are allowable over the cited art and that the subject application is now in condition for allowance.

The fact that applicant may not have specifically traversed any particular assertion by the Office should not be construed as indicating applicant's agreement therewith.

V. Conclusion

For all of the foregoing reasons, it is respectfully submitted the applicant has made a patentable contribution to the art. Favorable reconsideration and allowance of this application is therefore respectfully requested.

In the event applicant has inadvertently overlooked the need for an extension of time or payment of an additional fee, the applicant conditionally petitions therefore, and authorizes any fee deficiency to be charged to deposit account 13-0014.

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Respectfully submitted,



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